

S.R. 53 - By Barrientos: Extending congratulations to Cub Scout Pack 9 on 50 years of developing good citizenship, sportsmanship and respect for others.

S.R. 54 - By Truan: Extending welcome to Dr. John McCollough of Corpus Christi, Capitol Physician for the Day.

S.R. 55 - By Glasgow: Extending welcome to the honor government students from Boyd High School and their teacher, Charlotte Todd.

S.R. 56 - By Truan: Commending Johnny Bailey for his determination and skill in becoming the preeminent running back in NCAA Division II history.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 11:48 p.m. adjourned until 10:00 a.m. tomorrow.

SECOND DAY

(Tuesday, November 21, 1989)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend Henry Biar of King of Kings Lutheran Church, San Antonio, offered the invocation as follows:

Heavenly Father, in prayer we come to You as we approach Thanksgiving. We come to You in thanks for Your many blessings of this past year.

We thank You for these people whom You have given to represent this State's people.

We come to You this morning as these people seek to help many in our State.

We ask that You will guide and direct their hearts and minds to do what is right and good to deal with the workers' compensation bill in an honest and moral way, not selfishly, to personal interests but that which will do the highest good for all people.

Your will be done in Jesus' name. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

SENATE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution were introduced and read first time:

S.C.R. 12 by Brooks

Granting the City of Pasadena of Harris County permission to sue the State of Texas and the General Land Office.

S.B. 23 by Barrientos

Relating to the creation, administration, powers, duties, operation and financing of the Williamson-Travis Counties Water Control and Improvement District No. 1.

S.B. 24 by Green

Relating to collection of fees in certain statutory probate courts in Harris County.

S.B. 25 by Sims

Relating to the use of certain sick leave benefits by an employee of a political subdivision who sustains a work-related injury.

S.B. 26 by Sims

Relating to contracts between health care providers and political subdivisions or joint funds for coverage of certain work-related injuries.

S.B. 27 by Sims

Relating to the confidentiality of information in certain workers' compensation claim files.

S.B. 28 by Sims

Relating to the eligibility for workers' compensation benefits of certain persons hired by a political subdivision.

S.B. 29 by Sims

Relating to the establishment of a defense by a political subdivision against a claim for workers' compensation benefits by an employee of the subdivision.

CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 7

On motion of Senator Green and by unanimous consent, Senator Brown will be shown as Co-author of S.C.R. 7.

SENATE CONCURRENT RESOLUTION 7

Senator Green offered the following resolution:

S.C.R. 7, In memory of Judge Lindon Williams.

The resolution was read.

GUESTS PRESENTED

After the resolution was read, Senators Brooks, Parker, Washington, Edwards, Whitmire, Brown, Truan and Montford escorted Mrs. Evelyn Williams and Judge Williams' sons, Gerald and Lindon II, to the President's Rostrum.

The President presented an enrolled copy of S.C.R. 7 to Mrs. Williams.

SENATE RESOLUTION 58

Senator Sims offered the following resolution:

WHEREAS, It is with great pleasure that the Texas Senate recognize one of its most promising young senators on the momentous occasion of his 42nd birthday; and

WHEREAS, Arriving in Austin in 1989 as a new Senate member, Teel Bivins was elected to that honorable seat in his first race for political office; and

WHEREAS, A Texan by birth, Senator Bivins is a member of a pioneer Texas family extending back four generations; and

WHEREAS, Calling Amarillo home, he is an avid rancher and successful businessman by profession; and

WHEREAS, The 31st Senatorial District which Teel Bivins represents is a large one encompassing 29 counties, including all of the Panhandle and part of the western section of the South Plains; and

WHEREAS, Educated at both Tulane University and Southern Methodist University, he received his undergraduate degree in 1970 and his law degree in 1974; and

WHEREAS, He has been blessed with a lovely wife, Nancy, and three fine children, Andrew, Kate, and William, who strengthen and sustain him in all his endeavors; and

WHEREAS, Devoted to providing service to his fellowman, he has played a significant part in providing meaningful contributions in the best interest of his city and the West Texas community; and

WHEREAS, An energetic and capable businessman, he has been active with the Panhandle Mental Health Authority, serving as its chairman, and the Panhandle Superconducting Super Collider Authority; and

WHEREAS, Highly interested in the success of the state's cattle industry, he contributes his expertise and energies to the National Cattlemen Beef Promotion and Research Board and is Director of the Texas Cattle Feeders Association; and

WHEREAS, The citizens of West Texas and the entire state are fortunate in having the commitment of their senator from the 31st District who so ably represents their interests and concerns; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, 2nd Called Session, hereby extend heartfelt congratulations to Senator Teel Bivins on his 42nd birthday and wish him many more years of health and happiness; and, be it further

RESOLVED, That a copy of this Resolution be prepared for our distinguished colleague as a token of the esteem and high regard of the Texas Senate.

The resolution was read and was adopted viva voce vote.

GUEST PRESENTED

Senator Sims was recognized and presented Dr. Raymond Smith of Fredericksburg.

Dr. Smith, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was welcomed by the Senate and received an expression of gratitude for his service today.

MESSAGE FROM TEXAS WATER DEVELOPMENT BOARD

The following Message from the Texas Water Development Board was read and was referred to the Committee on Nominations:

TEXAS WATER DEVELOPMENT BOARD

November 20, 1989

Senate Nominations Committee
P. O. Box 12068 - Capitol Station
Austin, Texas 78711

Re: Appointment of Board of Directors, Lower Neches Valley Authority

Dear Mr. Chairman:

Pursuant to the provisions of Article 820-103, Vernon's Texas Civil Statutes, as amended by the 71st Texas Legislature, Regular Session, Chapter 873, p. 3863, the Texas Water Development Board, with the advice and consent of the Senate, appoints the nine-member board of directors of the Lower Neches Valley Authority. At its November 16, 1989 meeting, the Texas Water Development Board appointed the following members to expired terms on the Authority's board of directors:

Dr. W. S. Nichols, Jr., Woodville, Texas

Mr. R. C. Aldrich, Nome, Texas

Mr. Thad Heartfield, Beaumont, Texas

Sincerely yours,

/s/G. E. Kretzschmar

G. E. Kretzschmar

Executive Administrator

SENATE BILL 1 ON THIRD READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

S.B. 1, Relating to the reform of the workers' compensation system; to the creation, powers and duties of the Texas Workers' Compensation Commission; and to work safety; establishing the Texas Workers' Compensation Research Center; making appropriations; providing criminal and administrative penalties; and providing for taxes and fees.

The bill was read third time.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 1

Amend Section 4.69. **PHARMACEUTICAL SERVICES**, as follows:

(1) Strike subsection (b) in its entirety and substitute the following:

"(b) A health care practitioner providing care to an employee under this chapter shall prescribe for the employee prescription drugs in accordance with applicable state law."

(2) Insert a new subsection (c) to read as follows:

"(c) An insurance carrier may not require an employee to use pharmaceutical services designated by the insurance carrier."

By unanimous consent, the amendment was read and was adopted viva voce vote.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 2

Amend **S.B. 1** as follows:

(1) Amend Section 2.01(c), by deleting the sentence that reads "One member must be a practicing attorney with demonstrated experience in the workers' compensation laws of this State, who shall act as legal advisor to the Commission." and substituting "One member must represent the public."

(2) Amend Section 2.03(a) by deleting "attorney" and substituting "public."

By unanimous consent, the amendment was read and was adopted viva voce vote.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 3

Amend **S.B. 1** at Section 2.01 by adding a new subsection (g) as follows:

"(g) The annual salary of a member of the commission is \$71,400.00."

By unanimous consent, the amendment was read and was adopted viva voce vote.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 4

Amend S.B. 1 as follows:

Amend Section 2.22(a) by deleting "two" and substituting "one" between "plus" and "percent".

By unanimous consent, the amendment was read and was adopted viva voce vote.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 5

Amend S.B. 1 as follows:

Amend Section 6.24(h) by inserting "and is binding during the pendency of an appeal under Chapter E of this Article" between "party" and the period.

The amendment was read.

On motion of Senator Glasgow and by unanimous consent, the amendment was withdrawn.

Senator Johnson offered the following amendment to the bill:

Floor Amendment No. 6

Amend S.B. 1, Article 12, as follows:

Sec. 10. ACCOUNTING AND AUDIT. (a) The state treasurer shall make periodic reports to the board and the fund manager with regard to the status of the insurance fund and its investments.

(b) The state auditor shall audit the fund and the insurance fund annually ~~not later than the 60th day after the date on which the fund's fiscal year ends in accordance with the annual audit plan approved by the Legislative Audit Committee as provided in Chapter 321 of the Government Code.~~

By unanimous consent, the amendment was read and was adopted viva voce vote.

Senator Krier offered the following amendment to the bill:

Floor Amendment No. 7

Amend S.B. 1 as follows:

Amend SECTION 4.08(2), by inserting the following after the word "support":

"which shall be paid as required by an order withholding income under Section 14.13, Family Code, or a writ of withholding, under Section 14.15, Family Code" (page 61, line 19)

By unanimous consent, the amendment was read and was adopted viva voce vote.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 5

Amend S.B. 1 as follows:

Amend Section 6.24(h) by inserting "and is binding during the pendency of an appeal under Chapter E of this Article" between "party" and the period.

By unanimous consent, the amendment was read and was adopted viva voce vote.

Question - Shall the bill as amended be finally passed?

MESSAGE FROM THE HOUSE

House Chamber
November 21, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 7, In memory of Judge Lindon Williams of Baytown.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 1 ON THIRD READING

The Senate resumed consideration of S.B. 1 on its third reading and final passage.

Question - Shall the bill as amended be finally passed?

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 8

Amend S.B. 1 as follows:

Add a new Section 10.041 as follows:

"Section 10.041. DISCLOSURE OF ATTORNEY LOANS. (a) An attorney who represents a claimant before the Commission must disclose the amount of any money loaned to the claimant during the pendency of the workers' compensation claim. The attorney must include the date of the loan in such disclosure.

(b) The attorney may not withhold any amount from the claimant's workers' compensation benefits as repayment for a loan to the claimant unless the Commission specifically approves deduction of such amount."

The amendment was read and was adopted by the following vote: Yeas 30, Nays 1.

Nays: Caperton.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 9

Amend Section 4.32 at page 78, lines 17-18, by striking "before or after the claimant attains maximum medical improvement" and substituting "during the pendency of a claim".

By unanimous consent, the amendment was read and was adopted viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was finally passed viva voce vote.

RECORD OF VOTES

Senators Glasgow, McFarland, Harris, Krier, Sims, Brown and Henderson asked to be recorded as voting "Nay" on the final passage of the bill.

**VOTE ON FINAL PASSAGE OF
SENATE BILL 1 RECONSIDERED**

On motion of Senator Bivins and by unanimous consent, the vote by which S.B. 1 was finally passed was reconsidered.

Question - Shall S.B. 1 be finally passed?

The bill was again finally passed by the following vote: Yeas 22, Nays 9.

Yeas: Armbrister, Barrientos, Brooks, Caperton, Carriker, Dickson, Edwards, Green, Haley, Johnson, Krier, Lyon, Montford, Parker, Parmer, Santiesteban, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Bivins, Brown, Glasgow, Harris, Henderson, Leedom, McFarland, Ratliff, Sims.

SENATE BILL 2 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 2, Relating to the reform of the regulation of workers' compensation insurance coverage; to the creation, powers and duties of the Texas Workers' Compensation Insurance Facility; providing for self-insurance; making appropriations; and providing for taxes and fees.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 1

Amend S.B. 2 as follows:

(1) Amend ARTICLE 1, SECTION 1.03(b)(1) by striking the existing language and substituting the following:

"(1) "Administrative violation" means a violation of this Act or a rule adopted under this Act that is subject to the penalties or sanctions provided in this Act and the Texas Workers' Compensation Act." (page 3, lines 7-10)

(2) Amend ARTICLE 2, SECTION 2.01, by striking "chapter" and inserting "article". (page 3, line 16)

(3) Amend ARTICLE 2, SECTION 2.02(a) by striking "this Act" and inserting "the Workers' Compensation Act" between the words "under" and "shall" (page 3, line 23), between the words "under" and "after" (page 3, line 25), and between the words "under" and "and". (page 3, line 27)

(4) Amend ARTICLE 3, SECTION 3.21(a), by striking "by rule" between the words "provide" and "for". (page 21, line 15)

(5) Amend ARTICLE 3, Chapter B, Part 2, Section 2.02(c)(3), by striking "representatives" and inserting "members" between the words "the" and "shall". (page 28, line 27)

(6) Amend ARTICLE 3, Chapter B, Part 3, Section 3.02(b) by striking the word "reasonable". (page 34, line 14)

(7) Amend ARTICLE 3, Chapter B, Part 4, Section 4.01 by striking "or" and inserting "and" between the words "market" and "are". (page 35, line 18)

(8) Amend ARTICLE 3, Chapter B, Part 4, Section 4.05(c), by striking “experienced” and inserting “experience” between the words “compensation” and “rating”. (page 40, line 13)

(9) Amend ARTICLE 4, Chapter A, Section 4.05, amending Art. 5.58(c)(4), Insurance Code, by striking (c)(4) in its entirety and inserting a new (c)(4) to read as follows:

“(4) the severity classification of the claim, including separate classifications for claims in which death benefits are paid, claims in which lifetime income benefits are paid, claims in which only temporary income benefits are paid, claims in which impairment benefits are paid, benefits in which supplemental benefits are paid, and claims in which only medical benefits are paid;” (page 47-48, line 27, page 47, lines 1-5, page 48)

(10) Amend ARTICLE 4, Chapter A, Section 4.06, amending Art. 5.60, Insurance Code, by adding, in new subsection (b), a period after the word “state” and striking the rest of the sentence. (page 51, line 15)

(11) Amend ARTICLE 4, Chapter A, Section 4.06, amending Art. 5.60, Insurance Code, by adding, in new subsection (g), a period after the word “system” and striking “the companies.” (page 52, line 16)

(12) Amend ARTICLE 4, Chapter A, Section 4.08, amending Subchapter D, Chapter 5, Insurance Code, by striking the language in new Art. 5.57A(h) and substituting new language to read as follows:

“(h) Manual rules and rates shall be used in computing the rates for policies under this article, and the Board shall determine any experience rating factor that shall be applied to those group policies as provided by the Board’s rules.” (page 60, lines 4-7)

(13) Amend ARTICLE 4, Chapter A, Section 4.08, amending Subchapter D, Chapter 5, Insurance Code, by striking the language in new Art. 5.65A(b) and substituting new language to read as follows:

“(b) Each company or association that writes workers’ compensation insurance in this state, on written request of the policyholder, shall provide the policyholder with a list of claims charged against the policy, payments made and reserves established on each claim, and a statement explaining the effect of claims on premium rates.” (page 64, line 3)

(14) Amend ARTICLE 4, Chapter A, Section 4.08, by adding a new subsection (d) to new Art. 5.65A to read as follows:

“(d) Any policyholder may elect to waive the notification required by Subsection (a) of Article 5.65A” (page 64, line 14)

(15) Amend SECTION 5.08, by adding a new subsection (a) to read as follows:

“(a) Article 5.55a, Insurance Code, is repealed.” Reletter the subsequent subsections appropriately. (page 69, line 25)

The amendment was read and was adopted viva voce vote.

Senator Dickson offered the following amendment to the bill:

Floor Amendment No. 2

Amend S.B. 2 by striking subsection (a) of SECTION 2.02 in its entirety and renumbering the subsequent subsections accordingly.

The amendment was read and was adopted by the following vote: Yeas 20, Nays 10.

Yeas: Armbrister, Bivins, Brown, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Henderson, Krier, Leedom, McFarland, Montford, Ratliff, Santiesteban, Sims, Tejada, Whitmire, Zaffirini.

Nays: Barrientos, Brooks, Caperton, Johnson, Lyon, Parker, Parmer, Truan, Uribe, Washington.

Absent: Harris.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 3

Amend S.B. 2 on page 4, between lines 25 and 26 by inserting a new subsection (3) to read as follows:

"(3) The State Board of Insurance may implement a hardship plan providing for the payment of premiums in installments, for employers in building or construction."

The amendment was read and was adopted by the following vote: Yeas 30, Nays 1.

Nays: Washington.

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 4

Amend S.B. 2 by striking Chapter A of Article 3.

The amendment was read.

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Edwards, Glasgow, Green, Haley, Harris, Henderson, Krier, Leedom, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Dickson, Johnson, Lyon.

Question - Shall the bill as amended be passed to engrossment?

GUEST PRESENTED

Senator Krier was recognized and introduced the Honorable Joe Bernal of San Antonio.

Senator Bernal was welcomed by his former colleagues.

SENATE BILL 2 ON SECOND READING

The Senate resumed consideration of S.B. 2 on its second reading and passage to engrossment.

Question - Shall the bill as amended be passed to engrossment?

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 5

Amend S.B. 2 as follows:

(1) Amend Sec. 3.01, (page 33, line 27) by inserting the following language after "agent" and before "The":

The insurer may retain such risk for its own account or may reinsure the risk in accordance with rules and procedures adopted by the board.

(2) Add a new Sec. 3.05 between lines 13 and 14 on page 35 as follows:

Sec. 3.05. CREATION OF REINSURANCE ACCOUNT; ACCEPTANCE OF CEDED INSURANCE ON SMALL PREMIUM POLICIES. (a) The board

may authorize the establishment within the facility of a separate account to be known as the reinsurance account or may authorize a separate facility for small premium policies. Through this reinsurance account, the facility may accept ceded reinsurance of small premium policies from designated insurers. The reinsurance account shall be available to and shall accept reinsurance of small premium policies.

(b) Upon accepting such reinsurance the facility shall pay, as ceding commission, a portion of the premium applicable to such policy in a uniform amount determined from time to time by the board. The amount of the ceding commission shall be sufficient to reimburse the designated insurer for premium tax, maintenance taxes, general overhead expenses, loss adjustment expenses, agent's commissions, and other acquisition expenses provided that the amount of the ceding commission does not exceed the level granted to voluntary market writings for such expenses in the most recent workers' compensation rate decision.

(c) The facility must be notified that the small premium policy is to be ceded within 30 days from the date coverage under the policy becomes effective.

(d) Services on a reinsured policy will be provided by the designated insurer and retained for its own account. Settlements on reinsured transactions shall be made quarterly between the designated insurer and the facility.

(3) Amend Sec. 3.03, page 35, line 6, by adding "(a)" between the words "COSTS." and "The"; and by adding a new subsection (b) between lines 9 and 10 as follows:

(b) From funds received through the plan from reinsurance transactions, the facility shall set up and maintain reserves in accordance with rules approved by the board.

(4) Add a new Sec. 3.06 between lines 13 and 14 on page 35 as follows:

Sec. 3.06. SMALL PREMIUM POLICY PLAN REINSURANCE DEFICIT. Premiums and losses of small premium policies reinsured through the plan shall be accounted for in accordance with procedures applicable to the facility approved by the board.

(5) Amend Sec. 4.04, page 39 by adding a new subsection (i) between lines 15 and 16 to read as follows:

(i) A designated insurer may not cede more than 50% of its total writings of premium from risks eligible for a small premium policy. One-half of that portion of written premiums from risks eligible for small premium policies which is not ceded to the reinsurance account shall be removed from a member company's voluntary writings when calculating the assessment ratio of that member company as set out in subsection (a) of this section.

(6) Amend Sec. 4.09(a), page 42, line 16 by striking the word "no" to the end of the sentence on line 18 and inserting "the board gives full consideration to economies of scale to be achieved by limiting the number of servicing companies"

(7) Amend Sec. 4.09(c), page 43, line 21 by adding the words "and (b)" between the words "a" and "of".

(8) Amend Sec. 4.09(c), page 43 by adding the following sentence after "company," on line 23:

If an unlicensed entity is selected by the board to be a servicing carrier, the board may require a fidelity bond, surety bond, and/or other financial security of such an entity. An entity appointed under subsection (c) shall be subject to the provisions of Art. 21.21, and Art. 21.21-2, Insurance Code.

(9) Amend Sec. 4.05, page 40, by adding subsection (e) between lines 20 and 21 to read as follows:

(e) The board may establish a separate rating plan for those employers who apply for workers' compensation insurance in the facility and are either a certified self-insurer or member of a certified self-insurer group.

The amendment was read and was adopted viva voce vote.

Senator Green offered the following amendment to the bill:

Floor Amendment No. 6

Amend S.B. 2 by adding a new Section 3.05 on page 35, line 13 as follows and deleting Section 3.01 of Article 5.76-2 beginning on page 33, line 21, both in Section 3.31 of the bill and substituting in lieu thereof the following:

Sec. 3.01. PROVISION FOR COVERAGES. There is hereby established within the facility an employers' safety plan through which a designated insurer shall provide insurance coverages for any employer eligible therefor under a small premium policy. An eligible employer may apply for coverage to the board through a licensed agent. The board shall randomly assign employers applying for a small premium policy among all designated insurers on an equitable and proportionate basis, taking into account the size of the risk relative to the size of the insurer, the location of the risk, the ability of the designated insurer to service certain risks and all other pertinent factors. The insurer may retain such risk for its own account or may reinsure the risk through the plan. In either case, the designated insurer must provide such employer with the services required by law.

The amendment was read and was adopted by the following vote: Yeas 19, Nays 12.

Yeas: Armbrister, Barrientos, Brooks, Brown, Edwards, Glasgow, Green, Harris, Henderson, Johnson, Leedom, McFarland, Parmer, Ratliff, Sims, Truan, Washington, Whitmire, Zaffirini.

Nays: Bivins, Caperton, Carriker, Dickson, Haley, Krier, Lyon, Montford, Parker, Santiesteban, Tejada, Uribe.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 7

Amend S.B. 2, Sec. 3.31, beginning on page 41 by striking lines 9 through 27 and lines 1 through 3 on page 42, and substituting the following:

Sec. 4.07. DISCLOSURE BY REJECTED RISKS. (a) Any rejected risk shall make full disclosure to the facility of information concerning its true ownership, change of ownership, operations, or payroll and any of its records pertaining to workers' compensation insurance.

(b) The facility shall adopt rules to implement this section.

Renumber all subsequent sections.

The amendment was read and was adopted viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 8

Amend S.B. 2 as follows:

On page 27, between lines 1 and 2, insert a new section to read as follows:

SECTION 3.32. Subsection (b), Section 2, Article 1.14-1, Insurance Code, is amended to read as follows:

- (b) The provisions of this section do not apply to:
1. The lawful transaction of surplus lines insurance.
 2. The lawful transaction of reinsurance by insurers.
 3. Transactions in this state involving a policy lawfully solicited, written, and delivered outside of this state covering only subjects of insurance not resident, located, or expressly to be performed in this state at the time of issuance, and which transactions are subsequent to the issuance of such policy.
 4. Transactions involving contracts of insurance independently procured through negotiations occurring entirely outside of this state which are reported and on which premium tax is paid in accordance with this Article.
 5. Transactions in this state involving group life, health or accident insurance (other than credit insurance) and group annuities where the master policy of such groups was lawfully issued and delivered in a state in which the company was authorized to do an insurance business and such transactions are authorized by other statutes of this state.
 6. Lawful transactions by servicing companies of the Texas Workers' Compensation Employer's Rejected Risk Fund pursuant to Article 5.76-2, Section 4.09.

The amendment was read and was adopted viva voce vote.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 9

Amend S.B. 2 as follows:

On Page 37, beginning on line 10, amend Section 4.04 by deleting Subsections (b) through (h) and inserting new Subsections (b) and (c) to read as follows:

“(b) The Board may by rule provide for a maximum annual assessment for the facility deficit assessed against a member company under subsection (a) and may provide that the payment of any portion of the assessment not met because of such maximum is deferred from year to year.

(c) The rules shall require consideration of the financial stability of the fund and the member company when setting a maximum and allowing deferments under subsection (b) of this section.”

The amendment was read and was adopted by the following vote: Yeas 17, Nays 13.

Yeas: Barrientos, Carriker, Edwards, Glasgow, Green, Johnson, Krier, Lyon, McFarland, Parker, Parmer, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Armbrister, Bivins, Brown, Caperton, Dickson, Haley, Harris, Henderson, Leedom, Montford, Ratliff, Santiesteban, Sims.

Absent: Brooks.

Senator Green offered the following amendment to the bill:

Floor Amendment No. 10

Amend S.B. 2 by adding the following at the end of Section 4.04(e) of Article 5.76-2 in Section 3.31 of the bill on page 38, line 18:

“Commencing January 1, 1991, every member insurer which elects to defer any portion of an assessed deficit as provided herein must show the entire unpaid, assessed portion thereof as a liability on all of its financial and annual statements.”

The amendment was read and was adopted by the following vote: Yeas 23, Nays 6.

Yeas: Barrientos, Brooks, Brown, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Henderson, Johnson, Krier, Leedom, McFarland, Parker, Ratliff, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Armbrister, Caperton, Lyon, Montford, Parmer, Santiesteban.

Absent: Bivins, Harris.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 11

Amend S.B. 2 as follows:

(1) Section 4.08, page 55, line 8, delete "and".

(2) Section 4.08, page 55, line 9, between "5.65A" and "to" insert "and 5.65B".

(3) Amend Section 4.08, page 64 by adding a new Art. 5.56B between lines 13 and 14 as follows:

Art. 5.65B. DISCLOSURE BY POLICYHOLDER. (a) A policyholder shall make full disclosure to its insurance company of information concerning its true ownership, change of ownership, operations, or payroll and any of its records pertaining to workers' compensation insurance.

(b) To the extent that no employer shall evade an unfavorable or high cost experience, incurred experience shall be used in future ratings regardless of any change in ownership, control, management, or operations.

(c) The board, upon application of an affected party, may modify the rating upon proof that a change in management or operations is clearly probable to reduce the loss experience of the insured.

(d) The board shall promulgate rules necessary to implement this article.

The amendment was read and was adopted viva voce vote.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 12

(1) Amend S.B. 2, Section 4.08, Art. 5.55C (c), page 57 by inserting the following sentence after "Board." on line 9:

When establishing procedures for the calculation of experience modifiers, the Board may allow the exclusion of the claim amount paid under the deductible by the employer.

(2) Amend S.B. 2, Section 4.08, Art. 5.55C (d), page 57, line 12 by deleting the words beginning with "reimbursement" through the remainder of the sentence, and inserting the following:

the policyholder shall reimburse the company or association.

The amendment was read and was adopted viva voce vote.

RECORD OF VOTE

Senator Washington asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Green offered the following amendment to the bill:

Floor Amendment No. 13

Amend S.B. 2, Sec. 4.08, by adding at the end of Article 5.65A:

Article 5.77A. VOLUME PREMIUM DISCOUNTS AND DIVIDENDS IN WORKERS COMPENSATION POLICIES. (a) The Board shall develop a plan which allows volume premium discounts for the purchasers of workers' compensation insurance. Such plan shall allow the full discount available under the plan for insureds with an experience rating modifier less than .85. Such plan shall allow no more than 1/2 of that discount for insureds with an experience rating modifier greater than .85 and less than 1.25. Insureds with an experience rating modifier greater than 1.25 shall receive no discount under the plan.

(b) Dividends may not be allowed to an employer with an experience rating modifier greater than 1.25.

The amendment was read.

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 22, Nays 9.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Glasgow, Haley, Harris, Henderson, Johnson, Krier, Leedom, McFarland, Montford, Ratliff, Santiesteban, Sims, Tejada, Zaffirini.

Nays: Edwards, Green, Lyon, Parker, Parmer, Truan, Uribe, Washington, Whitmire.

(President Pro Tempore Caperton in Chair)

Senator Green offered the following amendment to the bill:

Floor Amendment No. 14

Amend S.B. 2, Sec. 4.08, by adding at the end of Article 5.55B, the following:

"Article 5.55C. REHABILITATION DISCOUNTS. The Board shall promulgate premium discount plans for employers who are certified participants in a commission-developed plan for the rehabilitation or the re-employment of injured employees at light duty jobs. In no event shall a premium discount under this article be allowed an employer with a debit modifier.

The amendment was read.

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 18, Nays 13.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Glasgow, Harris, Henderson, Leedom, McFarland, Montford, Ratliff, Santiesteban, Sims, Tejada, Truan, Zaffirini.

Nays: Caperton, Dickson, Edwards, Green, Haley, Johnson, Krier, Lyon, Parker, Parmer, Uribe, Washington, Whitmire.

Senator Green offered the following amendment to the bill:

Floor Amendment No. 15

Amend S.B. 2, Sec. 4.08, by adding at the end of Article 5.57A the following:

"Article 5.58B. DATA TO BE USED IN RATEMAKING. The statistical data collected under Article 5.58A, Insurance Code, and the Unit Statistical Data collected under Article 5.58, Insurance Code, shall be considered on an equal basis in the annual promulgation of rates by the Board."

The amendment was read.

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 21, Nays 10.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Edwards, Glasgow, Haley, Harris, Henderson, Krier, Leedom, McFarland, Montford, Parker, Ratliff, Sims, Tejada, Truan, Uribe, Zaffirini.

Nays: Caperton, Carriker, Dickson, Green, Johnson, Lyon, Parmer, Santiesteban, Washington, Whitmire.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 16

Amend S.B. 2, page 65, SECTION 5.02 (a) (6) (B), by adding the following after the period on line 18:

In conducting the review, the board may not construe insurance written solely for a parent and its wholly owned subsidiaries and wholly owned affiliates to be insurance written for the public generally.

The amendment was read and was adopted viva voce vote.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 17

Amend S.B. 2, Page 66, Line 7 by inserting after "1989" the following:
"or an order entered subsequent to that date pursuant to an application for exemption filed prior to that date,"

BROOKS
HENDERSON
SIMS

The amendment was read and was adopted viva voce vote.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 18

Amend S.B. 2 as follows:

On page 57, line 14, after "policy", insert the following: "The company or association shall seek reimbursement from the policyholder in an aggregate amount and not identified by individual claim."

The amendment was read.

On motion of Senator Parker and by unanimous consent, the amendment was withdrawn.

(Senator McFarland in Chair)

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 19

Amend S.B. 2 on page 2, by deleting Subsection (b) and substituting the following:

(b) The Texas Sunset Act (Chapter 325, Government Code) applies to the Texas Workers' Compensation Insurance Facility and the Texas Certified Self-Insurance Guaranty Association. Unless continued in existence as provided by

that chapter, the commission and the research center are abolished September 1, 1995.

The amendment was read and was adopted viva voce vote.

(President in Chair)

**MOTION TO RECONSIDER VOTE
ON ADOPTION OF FLOOR AMENDMENT NO. 6**

Senator Armbrister moved to reconsider the vote by which Floor Amendment No. 6 was adopted.

The motion to reconsider was lost by the following vote: Yeas 14, Nays 16.

Yeas: Armbrister, Barrientos, Brown, Caperton, Haley, Harris, Krier, Lyon, McFarland, Montford, Parker, Parmer, Sims, Tejada.

Nays: Bivins, Brooks, Carriker, Dickson, Edwards, Green, Henderson, Johnson, Leedom, Ratliff, Santiesteban, Truan, Uribe, Washington, Whitmire, Zaffirini.

Absent: Glasgow.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 20

Amend S.B. 2 as follows:

On page 57, line 14, after "policy", insert the following:

"The company or association shall not seek reimbursement from the policyholder in any manner identified by individual claimant."

The amendment was read and was adopted viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

SENATE BILL 2 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that S.B. 2 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

MEMORIAL RESOLUTIONS

H.C.R. 9 - (Dickson): In memory of former State Representative Walter B. Grubbs.

S.R. 59 - By Glasgow: In memory of Marie Saddler Eudaly of Fort Worth.

S.R. 60 - By Glasgow: In memory of Frank A. Camp of Denton.

S.R. 61 - By Glasgow: In memory of Dr. James E. Hunter of Bridgeport.

S.R. 62 - By Glasgow: In memory of Lucille Kelly Tilley of Fort Worth.

S.R. 63 - By Glasgow: In memory of Charles Elwood Hamilton, Sr., of Weatherford.

S.R. 64 - By Glasgow: In memory of Lottie Lee Young Underwood of Stephenville.

S.R. 66 - By Glasgow: In memory of Doyle W. Smith of DeLeon.

S.R. 68 - By Barrientos: In memory of Dorothy Lee Bolton of Austin.

CONGRATULATORY RESOLUTIONS

S.R. 57 - By Brown: Extending congratulations to Nolan Ryan on his splendid, unequalled strikeout record.

S.R. 65 - By Glasgow: Applauding Hank Thompson's contributions to the foundation of country music and honoring him on his induction into the Country Music Association's Hall of Fame.

S.R. 67 - By Barrientos: Extending congratulations to Julia Guadalupe Marchan on being named a semifinalist in McDonald's Hispanic Heritage Art Contest for Children.

S.R. 69 - By Barrientos: Commending Jill A. Shaw for her contributions to the Interagency Council on Dropout Prevention and Recovery.

S.R. 70 - By Barrientos: Commending Dr. Anita Sylvia Garcia for her dedicated service to the youth of Texas.

S.R. 71 - By Brooks: Extending congratulations to Robert Garland Button and Nancy Rumsfeld Button on the birth of their son, Jeffrey Garland Button.

S.R. 72 - By Parmer: Commending Don Henley for his exemplary work on behalf of causes close to his heart.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 2:04 p.m. adjourned, in loving memory of a friend and former colleague, Judge Lindon Williams, until 11:00 a.m. Tuesday, November 28, 1989.

**In Memory
of
Lindon Williams**

Senator Green offered the following resolution:

(Senate Concurrent Resolution 7)

WHEREAS, It is with great sorrow that the Texas Senate noted the passing of Judge Lindon Williams of Baytown who died September 24, 1989; and

WHEREAS, The varied and notable achievements of this distinguished gentleman in the realm of state government, business, religious affairs, and civic betterment have contributed immensely to the dynamic growth and progress of his city and the State of Texas; and

WHEREAS, His many outstanding accomplishments throughout a long and illustrious career are testimonial to his exceptional abilities; and

WHEREAS, A Texas native, Judge Williams was vitally interested in the welfare and progress of his fellow Texans, devoting much of his time and energy to his community and state; and

WHEREAS, He served his country with distinction in the United States Army during the Korean War and was a life member of the American Legion, Veterans of Foreign Wars, and Disabled American Veterans; and

WHEREAS, His legislative career began in 1966 with his election to the Texas House of Representatives where he served for eight years, representing Baytown and East Harris County; and

WHEREAS, During his legislative career he was recognized as the voice of the Texas veteran and authored most of the legislation benefitting our Texas veterans and their families; and

WHEREAS, Elected to the Texas Senate in 1975 to represent District 6, he continued to work for the veterans as secretary of the Texas Veterans Commission and as State Commander of the American Legion; and

WHEREAS, Widely respected by his fellow solons, Judge Williams was elected President Pro Tempore of the Senate in 1984 and was inaugurated as Governor for a Day on December 8, 1984; and

WHEREAS, After his retirement from the Senate in 1985, he was appointed to serve as Judge in the Justice Court in East Harris County; he served as Judge Advocate in the Justice of the Peace and Constable's Association of the State of Texas and as Chairman of the Justice Court Personnel Training Center; and

WHEREAS, Throughout his long career, Judge Williams dedicated himself to a justice system that applies the law fairly and equitably to all individuals; and

WHEREAS, The State of Texas has benefitted immeasurably from the wisdom and expertise of this illustrious public servant who conscientiously discharged his duties in an exemplary manner; and

WHEREAS, A devoted Christian layman, he was a member of the Memorial Baptist Church; he was a 33rd degree Scottish Rite Mason and a member of the Scottish Rite and York Rite; and

WHEREAS, His wise counsel and good judgment will be sorely missed and forever gratefully remembered by those who knew him; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, 2nd Called Session, hereby extend sincere condolences to his bereaved family: his wife, Evelyn; his sons, Gerald and Lindon II; his mother, Bessie Williams; his sisters, Lorene Williams Graves and Ina Williams Clegg; and his brother, J. B. Williams; and, be it further

RESOLVED, That copies of this Resolution be sent to his family as an expression of profound regret from the members of the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Judge Lindon Williams.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Green and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.